

AMENDED IN SENATE APRIL 10, 2003

AMENDED IN SENATE APRIL 8, 2003

**SENATE BILL**

**No. 888**

**Introduced by Senators Dunn, Bowen, and Burton**  
**(Coauthors: Senators Alpert, Escutia, Karnette, Kuehl,**

**Machado, Murray, Ortiz, Perata, and Romero)**

**(Coauthors: Assembly Members Matthews and Leno, Matthews,**  
**Oropeza, and Steinberg)**

February 21, 2003

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An act to amend Sections 335, 352, 364, 367, 377, 379, 392, and 9604 of, to amend and renumber Section 454.1 of, to add Sections 330.1, 330.2, 330.4, 330.6, 367.5, 393.1, 393.2, 454.10, and 761.7 to, to repeal Sections 334, 338, 341.1, 341.5, 346, 348, 350, 355, 356, 359, 360, 361, 365, 365.5, 366.5, 367.7, 370, 373, 376, 378, 389, 391, 397, 9600, 9601, 9602, 9603, and 9605 of, and to repeal and add Sections 330 and 366 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 888, as amended, Dunn. Public utilities: electrical restructuring.

(1) The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities. Private corporations and persons that own, operate, control, or manage a line, plant, or system for the production, generation, transmission, or furnishing of heat, light, or power, directly or indirectly to or for the public, are public utilities subject to control by the Legislature. The Constitution grants the commission certain general powers over all public utilities, including the power to fix rates and establish rules, and

authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities. The Public Utilities Act authorizes the commission to supervise and regulate every public utility in the state, including electrical, gas, and heat corporations, subject to provisions restructuring the electrical industry.

The existing restructuring of the electrical services industry provides for the authorization of direct transactions between an electric service provider, as defined, and retail end-use customers of an electrical corporation and allows end-use customers to aggregate their loads to facilitate direct transactions. The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO) and a Power Exchange as separately incorporated public benefit nonprofit corporations. An Electricity Oversight Board (Oversight Board) is also established to oversee the ISO and the Power Exchange in order to ensure the success of electric industry restructuring and to ensure a reliable supply of electricity in the transition to a new market structure. The ISO is required by existing law to participate in all relevant proceedings of the Federal Energy Regulatory Commission (FERC). Pursuant to an order of the FERC, the Power Exchange has ceased to function. The Oversight Board is granted various powers including, but not limited to, requiring the revision of the bylaws of the ISO and the approval of the entry of the ISO into a multistate entity or a regional organization. Existing law requires the ISO to adopt certain inspection, maintenance, repair, and replacement standards for the transmission facilities under its control and to make a related report to the Oversight Board. Existing law authorizes the ISO and the Power Exchange to enter into a regional compact or other comparable agreement to become western states regional organizations.

This bill would enact the Repeal of Electricity Deregulation Act of 2003. The bill would provide that the obligation of electrical and gas corporations to provide adequate service at just and reasonable rates, includes a duty of care, a duty of loyalty, a duty of disclosure, and a duty to use best efforts by the corporation's management, to maintain safe, healthful, and affordable basic service for end-use customers, consistent with the statutes of the state and the rules, regulations, decisions, and orders of the commission. The bill would require the commission to ensure that public utility employees and investors are



afforded the means to carry out these obligations, specifically including reasonable compensation for employees and fair sharing of risks and rewards for investors. The bill would require the commission to ensure that generation assets remain dedicated for the benefit of the electrical corporation's bundled customers, and establishes standards for the recovery of costs and return on investment. The bill would authorize the commission to require electrical corporations to make investments in electric plants that are dedicated to serve customers connected to the electrical corporation's distribution system or grid, or to contract for such investment with the California Consumer Power and Conservation Financing Authority.

This bill would delete the authorization of direct transactions, including aggregation of loads and other provisions to facilitate direct transactions, between an electric service provider and retail end-use customers of an electrical corporation, on a prospective basis. The bill would require all metering of customer usage of electricity and customer billing to be performed by the electrical corporation and would prohibit residential and small commercial customers being required to take service under a time-differentiated rate without prior consent.

This bill would delete those provisions establishing the Power Exchange and would make conforming changes repealing those provisions granting powers to the Oversight Board relative to the Power Exchange. The bill would delete provisions relative to the ISO participation in FERC activities. The bill would require the Legislature to approve the entry of the ISO into a multistate or regional transmission organization, and would repeal that provision regarding the adoption of standards for transmission facilities by the ISO. The bill would require the commission to periodically review and update inspection, maintenance, repair, and replacement standards for the distribution and transmission systems of investor-owned electric utilities. The bill would repeal the regional compact provision. The bill would make other conforming changes. Because any violation of the Public Utilities Act is a crime, the bill would impose a state-mandated local program by changing the definition of a crime.

This bill would establish a Ratepayer Refund Account for each electrical corporation, into which would be paid any funds recovered by electrical corporations resulting from litigation or agreement relative to the charging of excessive costs for wholesale electricity by



electrical generators. All funds would be held in trust on behalf of ratepayers.

(2) The existing Public Utilities Act, prohibits any person or corporation from acquiring or controlling, directly or indirectly, any public utility organized and doing business in this state, including electrical corporations and gas corporations, without first securing authorization to do so from the commission.

Existing law requires the commission, before authorizing the acquisition or control of an electric, gas, or telephone utility having revenues in excess of a specified amount, to consider, among other things, that the proposal provides short-term and long-term economic benefits to ratepayers, and equitably allocates the short-term and long-term forecasted economic benefits of the proposed merger, acquisition, or control, as determined by the commission, between shareholders and ratepayers, where the commission has ratemaking authority.

Pursuant to the act, the commission has authorized the formation of holding companies holding a controlling interest in certain electrical corporations and gas corporations. The commission has conditioned authorization upon the capital requirements of the electrical corporation or gas corporation being given first priority by the board of directors of the parent holding company, as determined by the commission as being necessary to meet the obligation to serve the electrical corporation or gas corporation.

This bill would provide that a holding company as defined, or other entity that owns, controls, operates, or manages a public utility, is subject to the continuing jurisdiction and power of the commission for the limited purpose of monitoring and enforcing conditions in certain decisions of the commission authorizing the formation of holding companies. Because a violation of the Public Utilities Act or an order of the commission is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.

(3) This bill would delete provisions relative to the restructuring of electrical service provided by publicly owned electrical utilities.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.



Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 330 of the Public Utilities Code is  
2 repealed.

3 SEC. 2. Section 330 is added to the Public Utilities Code, to  
4 read:

5 330. The act adding this section shall be known and cited as  
6 the Repeal of Electricity Deregulation Act of 2003.

7 SEC. 3. Section 330.1 is added to the Public Utilities Code, to  
8 read:

9 330.1. The Legislature finds and declares all of the following:

10 (a) Electricity is a unique good in modern society, not a simple  
11 commodity. Access to safe, reliable and affordable electrical  
12 service is indispensable to the health, comfort, and well-being of  
13 every person and business, and should be regarded as a right.

14 (b) Unlike *other* commodities, electricity must be  
15 manufactured at the same instant it is consumed, it cannot be  
16 effectively stored, and adequate generating and transmission  
17 capacity must be available at all times to meet any level of demand  
18 at any location. Shortages, even for only a few minutes, cause  
19 blackouts. This combination of circumstances creates  
20 unparalleled opportunities for discrimination and market  
21 manipulation.

22 (c) Reliable electrical service is of utmost importance to the  
23 safety, health, and welfare of the state's citizenry and economy. It  
24 is the intent of the Legislature that regulation of the electrical  
25 industry should ensure the reliability of electrical service to  
26 end-users, including the reliability of the interconnected regional  
27 transmission systems, and provide strong coordination and  
28 enforceable protocols for all users of the electricity grid.

29 (d) Accordingly, the electrical industry must be  
30 comprehensively regulated, by state and federal agencies for  
31 investor-owned utilities, or by customer-controlled structures for  
32 public and cooperative utilities. The people of California expect  
33 effective government and utility action to ensure reliable service  
34 at reasonable rates.

1 (e) Electrical service in California was restructured, or  
2 deregulated, by orders of the California Public Utilities  
3 Commission (CPUC) and the Federal Energy Regulatory  
4 Commission (FERC), and actions of the California Independent  
5 System Operator pursuant to FERC authorization, which ordered  
6 separation of the transmission and generation elements of  
7 electrical service resulting in: (1) divestiture of powerplants that  
8 had been built and dedicated to serve California consumers at just  
9 and reasonable regulated rates; (2) the separation of wholesale and  
10 retail transmission service by the utility owners of the transmission  
11 facilities; (3) uses of the transmission grid designed to enable  
12 sellers to undermine grid reliability in the pursuit of high prices  
13 through the exercise of market power.

14 (f) The California Legislature confirmed the CPUC orders in  
15 some respects through the enactment of Assembly Bill 1890  
16 (Chapter 854 of the Statutes of 1996), and in so doing, codified the  
17 basic tenants of deregulation of electrical service in California.

18 (g) As the direct result of deregulation of the electrical industry,  
19 electricity markets in California have been grossly dysfunctional  
20 for the past several years, characterized by manipulation and abuse  
21 of seller market power in wholesale electricity markets,  
22 withholding of vital energy supplies and other illegal conduct that  
23 resulted in unjust and unreasonable wholesale prices for  
24 electricity, causing elevated retail rates and repeated actual and  
25 threatened interruptions of electrical service.

26 (h) As the direct result of the deregulation of the wholesale  
27 electrical market and the dysfunctional service arrangements,  
28 residential and business consumers have endured the single largest  
29 retail rate increase in the state's history, the state's largest electrical  
30 corporation filed for bankruptcy, a second electrical corporation  
31 was on the verge of insolvency, and reliable electrical service was  
32 repeatedly jeopardized. It will take many years for the economic  
33 effects of these calamities to be overcome.

34 (i) During the period from May 2000 through June 2001,  
35 California was beset by actual and threatened blackouts due to  
36 supply withholding by wholesale generators and electricity  
37 traders, using both direct and indirect means to make electricity  
38 unavailable to the people of California.

39 (j) As the direct result of deregulation of the electrical supply  
40 market, California was forced to rely entirely on unregulated



1 private investment decisions to provide sufficient electrical  
2 generation to satisfy the demand for electricity. As a direct result  
3 of deregulation of the electrical supply market, California has  
4 experienced the boom and bust cycle in the construction of new  
5 electrical power plants that characterizes any unregulated market.  
6 The wholesale electricity generation sector, subject only to  
7 ineffective or nonexistent regulation by FERC, is now failing to  
8 invest in new generation needed by California.

9 (k) As the direct result of deregulation of the electrical ~~utility~~  
10 industry, California's traditional commitments to renewable  
11 energy sources and investments in improved energy efficiency  
12 were weakened. In order to fulfill the mandates of Senate Bill 1078  
13 (Chapter 516 of the Statutes of 2002), which is necessary to protect  
14 California's environment, public utilities must be able to  
15 implement the California Renewables Portfolio Standard  
16 Program.

17 (l) California electricity consumers will inevitably provide the  
18 ultimate credit support for any new investment in facilities for the  
19 provision of electrical service in the future either through  
20 rate-based utility investments or through long-term contracts with  
21 other suppliers. Protecting the interests of consumers by ensuring  
22 that investment is prudent and cost effective should be the highest  
23 priority of California regulatory policy and action.

24 (m) It is in the state's interest to have functional creditworthy  
25 public utilities providing essential electrical service to California  
26 consumers at just and reasonable rates and to limit the exposure of  
27 California consumers to dysfunctional deregulated wholesale  
28 electricity markets.

29 (n) Fully empowering public utilities and state entities and  
30 agencies, including the CPUC, the California Consumer Power  
31 and Conservation Financing Authority, the Independent System  
32 Operator, and the Department of Water Resources to mitigate the  
33 exercise of market power by sellers of electricity, reduce prices for  
34 electricity, and restore electrical grid reliability, is in the public  
35 interest. To the extent that unbundling the elements of electrical  
36 service, including transmission of electricity provided to retail  
37 consumers, weakens the ability of California to protect its people,  
38 such unbundling should be reconsidered and reversed.

39 (o) Direct transactions, popularly termed direct access, as a  
40 means for obtaining retail electrical service, has resulted in



1 massive subsidies of some retail customers by others. Direct  
2 access has resulted in increased costs for bundled service  
3 customers of electrical corporations, while failing to provide  
4 justifiable reduced costs for direct access customers. Direct access  
5 undermines the ability of public utilities to plan and invest to meet  
6 their obligation to serve, by making uncertain the amount of  
7 customer demand that must be met. Direct access is a part of  
8 electrical industry deregulation that should end as soon as existing  
9 direct transaction contracts expire.

10 (p) The expectations and assumption that deregulation of the  
11 electrical-~~utility~~ industry would provide consumer benefits,  
12 enhanced reliability, lower rates and technological innovation,  
13 have proven illusory. Instead, consumers have been and will be  
14 forced to pay for massive costs incurred as a result of deregulation,  
15 and have suffered from unprecedented degradation in the  
16 reliability of electricity supply. Public utilities have been forced to  
17 near financial ruin or to seek bankruptcy protection. Certain  
18 merchant generators and marketers are in severe financial distress.

19 (q) It is in the public interest to repudiate the failed policies of  
20 electrical ~~utility~~ *industry* deregulation, and to assure the people of  
21 California that electrical service will be reliable and affordable in  
22 the future through effective regulation.

23 SEC. 4. Section 330.2 is added to the Public Utilities Code, to  
24 read:

25 330.2. It is the intent of the Legislature to achieve effective  
26 regulation of California's public utilities and to pursue the  
27 following policy goals:

28 (a) Restore and affirm the public utility's obligation to serve all  
29 of its customers.

30 (b) Eliminate opportunities for market manipulation by  
31 stopping electric plant divestiture and authorizing cost-of-service  
32 construction of new electric plants and public utility wholesale  
33 electricity procurement, while providing a fair opportunity for  
34 reasonable returns on prudent investment.

35 (c) Ensure electricity supply reliability and deter market  
36 manipulation by establishing and enforcing effective standards for  
37 maintenance and operation of electric plants that serve California.

38 (d) Provide for cost-effective construction, operation and  
39 maintenance of the electrical transmission grid and distribution





1 system in the public interest, while providing a fair opportunity for  
2 reasonable returns on prudent investment.

3 (e) Protect consumers from slamming, cramming and fraud by  
4 requiring metering, billing, collection, and customer service to be  
5 provided by public utilities, under regulation by the CPUC.

6 (f) Preserve and renew the skilled public utility workforce by  
7 ending employee layoffs, providing reasonable wages and  
8 working conditions, and ensuring that the public utilities have an  
9 adequately sized and trained workforce.

10 (g) Establish a comprehensive integrated resource planning  
11 process under regulation, in order to ensure resource adequacy,  
12 including investing in cost-effective energy efficiency and  
13 conservation programs, and increasing the proportion of  
14 electricity provided from cost-effective renewable resources.

15 (h) Simplify corporate ownership of electrical corporations by  
16 requiring transparent forms of corporate ownership of public  
17 utilities, by improving accountability for holding company  
18 requirements in state law and by seeking enforcement of the Public  
19 Utilities Holding Company Act of 1935 (Ch. 2C (commencing  
20 with Sec. 79), Title 15, U.S.C.).

21 (i) Provide for fair cost allocation among customers in just and  
22 reasonable rates fixed through open public processes, not  
23 discriminatory retail choice or direct access transactions.

24 (j) Restore consumer and investor confidence in electrical  
25 corporation financial soundness and pricing fairness by making  
26 costs transparent and establishing and enforcing accounting  
27 standards.

28 (k) Assure universal service by assuring affordable rates and,  
29 among other measures, providing low-income discounts with  
30 effective enrollment programs.

31 (l) Provide an open regulatory forum where all persons affected  
32 by public utility service and rates, can observe and participate in  
33 the decisionmaking process.

34 SEC. 5. Section 330.4 is added to the Public Utilities Code, to  
35 read:

36 330.4. The actions of the commission pursuant to this part, as  
37 they affect electrical service, shall be consistent with the findings  
38 and declarations contained in this article.

39 SEC. 6. Section 330.6 is added to the Public Utilities Code, to  
40 read:

1 330.6. (a) Electrical corporations and gas corporations that  
2 serve retail customers, because of their status as public utilities  
3 under the California Constitution, have an obligation to provide  
4 those customers with adequate service at just and reasonable rates.

5 (b) The obligation of electrical corporations and gas  
6 corporations, to provide adequate service at just and reasonable  
7 rates, includes a duty of care, a duty of loyalty, a duty of disclosure,  
8 and a duty to use best efforts by the corporation's management, to  
9 maintain safe, healthful, and affordable basic service for end-use  
10 customers, consistent with the statutes of the state and the rules,  
11 regulations, decisions, and orders of the commission.

12 (c) The commission, on behalf of end-use customers, shall  
13 ensure that public utility employees and investors are afforded the  
14 means to carry out this obligation to serve, specifically including  
15 reasonable compensation for employees and fair sharing of risks  
16 and rewards for investors.

17 SEC. 7. Section 334 of the Public Utilities Code is repealed.

18 SEC. 8. Section 335 of the Public Utilities Code is amended  
19 to read:

20 335. In order to ensure that the interests of the people of  
21 California are served, a five-member Electricity Oversight Board  
22 is hereby created as provided in Section 336. For purposes of this  
23 chapter, any reference to the Oversight Board shall mean the  
24 Electricity Oversight Board. Its functions shall be all of the  
25 following:

26 (a) To oversee the Independent System Operator .

27 (b) To serve as an appeal board for majority decisions of the  
28 Independent System Operator governing board, as they relate to  
29 matters subject to exclusive state jurisdiction, as specified in  
30 Section 339.

31 (c) To investigate any matter related to the wholesale market  
32 for electricity to ensure that the interests of California's citizens  
33 and consumers are served, protected, and represented in relation  
34 to the availability of electrical transmission and generation and  
35 related costs, during periods of peak demand.

36 SEC. 9. Section 338 of the Public Utilities Code is repealed.

37 SEC. 10. Section 341.1 of the Public Utilities Code is  
38 repealed.

39 SEC. 11. Section 341.5 of the Public Utilities Code is  
40 repealed.

1 SEC. 12. Section 346 of the Public Utilities Code is repealed.  
2 SEC. 13. Section 348 of the Public Utilities Code is repealed.  
3 SEC. 14. Section 350 of the Public Utilities Code is repealed.  
4 SEC. 15. Section 352 of the Public Utilities Code is amended  
5 to read:

6 352. The Independent System Operator may not enter into a  
7 multistate regional transmission organization unless that entry is  
8 approved by the Oversight Board and the Legislature by  
9 concurrent resolution.

10 SEC. 16. Section 355 of the Public Utilities Code is repealed.  
11 SEC. 17. Section 356 of the Public Utilities Code is repealed.  
12 SEC. 18. Section 359 of the Public Utilities Code is repealed.  
13 SEC. 19. Section 360 of the Public Utilities Code is repealed.  
14 SEC. 20. Section 361 of the Public Utilities Code is repealed.  
15 SEC. 21. Section 364 of the Public Utilities Code is amended  
16 to read:

17 364. (a) The commission shall adopt and periodically review  
18 and update inspection, maintenance, repair, and replacement  
19 standards for the distribution and transmission systems of  
20 investor-owned electric utilities . The standards for each  
21 substantial type of distribution and transmission equipment or  
22 facility, shall provide for high quality, safe and reliable service.

23 (b) In setting its standards, the commission shall consider: cost,  
24 local geography and weather, applicable codes, national electric  
25 industry practices, sound engineering judgment, and experience.  
26 The commission shall also adopt standards for operation,  
27 reliability, and safety during periods of emergency and disaster.  
28 The commission shall require each utility to report annually on its  
29 compliance with the standards. That report shall be made available  
30 to the public.

31 (c) The commission shall conduct a review to determine  
32 whether the standards prescribed in this section have been met. If  
33 the commission finds that the standards have not been met, the  
34 commission may order appropriate sanctions, including penalties  
35 in the form of rate reductions or monetary fines. The review shall  
36 be performed after every major outage. Any money collected  
37 pursuant to this subdivision shall be used to offset funding for the  
38 California Alternative Rates for Energy Program.

39 SEC. 22. Section 365 of the Public Utilities Code is repealed.



1 SEC. 23. Section 365.5 of the Public Utilities Code is  
2 repealed.

3 SEC. 24. Section 366 of the Public Utilities Code is repealed.

4 SEC. 25. Section 366 is added to the Public Utilities Code, to  
5 read:

6 366. (a) It is the intention of the legislature to terminate direct  
7 transactions.

8 (b) Each customer within the geographical distribution area of  
9 an electrical corporation, that purchases electricity at retail, shall  
10 be served by the electrical corporation or its successor in interest,  
11 except as provided in Sections 366.1 and 366.2.

12 (c) If a customer was served by an electric service provider on  
13 April 1, 2003, the customer shall continue to be served by that  
14 electric service provider until the expiration of the customer's  
15 current contract, without extension. Thereafter, the customer shall  
16 be served by the electrical corporation that provides distribution  
17 service.

18 (d) A customer that elects to continue purchasing electricity  
19 from an electric service provider pursuant to subdivision (c), shall  
20 supply the commission with a confidential copy of its current  
21 direct transaction contract.

22 (e) Any customer that the commission has determined in  
23 Decision 02-11-022, is responsible to pay a cost recovery  
24 surcharge as a condition for purchasing electricity pursuant to a  
25 direct transaction, shall continue to pay the cost recovery  
26 surcharge until full collection is achieved.

27 (f) The commission shall report to the Legislature by July 1,  
28 2004, all of the following:

29 (1) Each customer electing to continue purchasing electricity  
30 from an electric service provider pursuant to subdivision (c),  
31 identified numerically.

32 (2) The electrical load serviced under each direct transaction  
33 contract.

34 (3) The expiration date of each direct transaction contract.

35 (g) The commission shall, within 30 days after the expiration  
36 of all direct transaction contracts, report to the Legislature  
37 confirming that direct transactions have terminated.

38 SEC. 26. Section 366.5 of the Public Utilities Code is  
39 repealed.

SEC. 27. Section 367 of the Public Utilities Code is amended to read:

367. The commission shall identify and determine those costs and categories of costs for generation-related assets and obligations, consisting of generation facilities, generation-related regulatory assets, nuclear settlements, and power purchase contracts, including, but not limited to, restructurings, renegotiations or terminations thereof approved by the commission, that were being collected in commission-approved rates on December 20, 1995, and that may become uneconomic as a result of a competitive generation market, in that these costs may not be recoverable in market prices in a competitive market, and appropriate costs incurred after December 20, 1995, for capital additions to generating facilities existing as of December 20, 1995, that the commission determines are reasonable and should be recovered, provided that these additions are necessary to maintain the facilities through December 31, 2001. These uneconomic costs shall include transition costs as defined in subdivision (f) of Section 840, and shall be recovered from all customers or in the case of fixed transition amounts, from the customers specified in subdivision (a) of Section 841, on a nonbypassable basis and shall:

(a) Be amortized over a reasonable time period, including collection on an accelerated basis, consistent with not increasing rates for any rate schedule, contract, or tariff option above the levels in effect on June 10, 1996, provided that, the recovery shall not extend beyond December 31, 2001, except as follows:

(1) Costs associated with employee-related transition costs as set forth in subdivision (b) of Section 375 shall continue until fully collected; provided, however, that the cost collection shall not extend beyond December 31, 2006.

(2) Power purchase contract obligations shall continue for the duration of the contract. Costs associated with any buy-out, buy-down, or renegotiation of the contracts shall continue to be collected for the duration of any agreement governing the buy-out, buy-down, or renegotiated contract; provided, however, no power purchase contract shall be extended as a result of the buy-out, buy-down, or renegotiation.

(3) Nuclear incremental cost incentive plans for the San Onofre nuclear generating station shall continue for the full term as authorized by the commission in Decision 96-01-011 and Decision

1 96-04-059; provided that the recovery shall not extend beyond  
2 December 31, 2003.

3 (4) Fixed transition amounts, as defined in subdivision (d) of  
4 Section 840, may be recovered from the customers specified in  
5 subdivision (a) of Section 841 until all rate reduction bonds  
6 associated with the fixed transition amounts have been paid in full  
7 by the financing entity.

8 (b) (1) There shall be a firewall segregating the recovery of  
9 the costs of competition transition charge exemptions such that the  
10 costs of competition transition charge exemptions granted to  
11 members of the combined class of residential and small  
12 commercial customers shall be recovered only from these  
13 customers, and the costs of competition transition charge  
14 exemptions granted to members of the combined class of  
15 customers, other than residential and small commercial customers,  
16 shall be recovered only from these customers.

17 (2) The commission shall retain existing cost allocation  
18 authority, provided the firewall and rate freeze principles are not  
19 violated.

20 SEC. 28. Section 367.5 is added to the Public Utilities Code,  
21 to read:

22 367.5. (a) The commission shall establish a Ratepayer  
23 Refund Account for each electrical corporation. All refunds  
24 recovered by an electrical corporation, either directly or indirectly  
25 by way of offset against amounts otherwise owed by the electrical  
26 corporation, resulting from any litigation or agreement relative to  
27 the charging of excessive costs for wholesale electricity by  
28 electrical generators, traders, and suppliers that have been  
29 recovered, or are recoverable, from ratepayers in  
30 commission-approved rates, shall be credited to the electrical  
31 corporation's Ratepayer Refund Account.

32 (b) All funds held by an electrical corporation that are required  
33 by this section to be credited to the Ratepayer Refund Account of  
34 the corporation are the property of the ratepayers and shall be held  
35 in trust on their behalf.

36 SEC. 29. Section 367.7 of the Public Utilities Code is  
37 repealed.

38 SEC. 30. Section 370 of the Public Utilities Code is repealed.

39 SEC. 31. Section 373 of the Public Utilities Code is repealed.

40 SEC. 32. Section 376 of the Public Utilities Code is repealed.



SEC. 33. Section 377 of the Public Utilities Code is amended to read:

377. The commission shall regulate the facilities for the generation of electricity owned by any public utility on a cost of service basis. Notwithstanding any other provision of law, no facility or site for the generation of electricity owned by a public utility may be disposed of prior to January 1, 2010. The commission shall ensure that public utility generation assets remain dedicated for the benefit of the electrical corporations' bundled customers.

SEC. 34. Section 378 of the Public Utilities Code is repealed.

SEC. 35. Section 379 of the Public Utilities Code is amended to read:

379. Nuclear decommissioning costs shall be recovered as a nonbypassable charge until the costs are fully recovered. Recovery of decommissioning costs may be accelerated to the extent possible.

SEC. 36. Section 389 of the Public Utilities Code is repealed.

SEC. 37. Section 391 of the Public Utilities Code is repealed.

SEC. 38. Section 392 of the Public Utilities Code is amended to read:

392. Electrical corporations shall disclose each component of the electrical bill as directed by the commission.

SEC. 39. Section 393.1 is added to the Public Utilities Code, to read:

393.1. The Legislature finds and declares all of the following:

(a) Metering customer usage of electricity is an integral part of the electricity distribution system, and is the responsibility of the electrical corporation.

(b) Accurately applying utility tariffs approved by the commission and calculating a customer's bill is the responsibility of the electrical corporation.

(c) If electricity metering is performed by entities other than the electrical corporation, it can create customer confusion, and can create serious safety hazards for customers and utility employees.

(d) Customers are entitled to have the electrical corporation resolve all questions regarding the accuracy of bills, including the accuracy of metering and correct application of approved utility tariffs, subject to commission oversight.



1 (e) To protect customers from fraud and abuse, and to enable  
2 customers to easily resolve disputes concerning metering or  
3 billing, those functions should be performed only by an electrical  
4 corporation subject to regulation by the commission.

5 SEC. 40. Section 393.2 is added to the Public Utilities Code,  
6 to read:

7 393.2. (a) All metering of customer usage of electricity and  
8 customer billing shall be performed by the electrical corporation.

9 (b) No residential or small commercial customer may be  
10 required to take service under a time-differentiated rate without  
11 the customer's prior consent.

12 (c) Nothing in this article limits the commission's power or  
13 authority with respect to customer billing. The commission may  
14 require an electrical corporation to aggregate a customer's  
15 multiple accounts into a single bill, so long as the cost for that  
16 activity is recoverable in rates.

17 SEC. 41. Section 397 of the Public Utilities Code is repealed.

18 SEC. 42. Section 454.1 of the Public Utilities Code, as added  
19 by Chapter 1040 of the Statutes of 2000, is amended and  
20 renumbered to read:

21 454.6. (a) Reasonable expenditures by transmission owners  
22 that are electrical corporations to plan, design, and engineer  
23 reconfiguration, replacement, or expansion of transmission  
24 facilities are in the public interest and are deemed prudent if made  
25 for the purpose of providing lower cost delivery of electricity to  
26 ratepayers, or maintaining or enhancing reliability, whether or not  
27 these expenditures are for transmission facilities that become  
28 operational.

29 (b) The commission and the Electricity Oversight Board shall  
30 jointly facilitate the efforts of the state's transmission owning  
31 electrical corporations to obtain authorization from the Federal  
32 Energy Regulatory Commission to recover reasonable  
33 expenditures made for the purposes stated in subdivision (a).

34 (c) Nothing in this section alters or affects the recovery of the  
35 reasonable costs of other electric facilities in rates pursuant to the  
36 commission's existing ratemaking authority under this code or  
37 pursuant to the Federal Power Act ( Ch. 12 (commencing with  
38 Section 791a), Title 16, U.S.C.). The commission may  
39 periodically review and adjust depreciation schedules and rates  
40 authorized for an electric plant that is under the jurisdiction of the

1 commission and owned by electrical corporations and periodically  
2 review and adjust depreciation schedules and rates authorized for  
3 a gas plant that is under the jurisdiction of the commission and  
4 owned by gas corporations, consistent with this code.

5 SEC. 43. Section 454.10 is added to the Public Utilities Code,  
6 to read:

7 454.10. (a) In order to ensure that service provided by  
8 electrical corporations is adequate, the commission may require an  
9 electrical corporation that provides distribution service to make  
10 direct investments in, or contract with the California Consumer  
11 Power and Conservation Financing Authority for, electric plants  
12 that are dedicated to serve the customers connected to the electrical  
13 corporation's distribution system or grid, consistent with the plan  
14 approved by the commission pursuant to Section 454.5.

15 (b) After a hearing, the commission shall approve rates  
16 sufficient to afford the electrical corporation a reasonable  
17 opportunity to recover its reasonable costs of operating, its  
18 reasonable investment in, and a reasonable return on its investment  
19 in the electric plants, in accordance with Sections 330.6, 377, 451,  
20 and 1005.5.

21 (c) An electrical corporation may meet the obligations of this  
22 section by contracting with or entering into projects for  
23 construction of electric plants jointly with, without limitation, the  
24 California Consumer Power and Conservation Financing  
25 Authority, California municipalities, cooperatives, and joint  
26 powers authorities.

27 SEC. 44. Section 761.7 is added to the Public Utilities Code,  
28 to read:

29 761.7. An electrical corporation, holding company as defined  
30 in Section 79b(a)(7)(A) of Title 15 of the United States Code, or  
31 other entity that owns, controls, operates, or manages a public  
32 utility shall be subject to the jurisdiction, control, and regulation  
33 of the commission for the limited purpose of monitoring and  
34 enforcing conditions in commission decisions D.88-01-063,  
35 D.96-11-017, D.99-04-068, D.95-05-021, D.95-12-018, and  
36 D.98-03-07.

37 SEC. 45. Section 9600 of the Public Utilities Code is  
38 repealed.

39 SEC. 46. Section 9601 of the Public Utilities Code is  
40 repealed.

1 SEC. 47. Section 9602 of the Public Utilities Code is  
2 repealed.

3 SEC. 48. Section 9603 of the Public Utilities Code is  
4 repealed.

5 SEC. 49. Section 9604 of the Public Utilities Code is amended  
6 to read:

7 9604. For purposes of this division, “local publicly owned  
8 electric utility” as used in this division means a municipality or  
9 municipal corporation operating as a “public utility” furnishing  
10 electric service as provided in Section 10001, a municipal utility  
11 district furnishing electric service formed pursuant to Division 6  
12 (commencing with Section 11501), a public utility district  
13 furnishing electric services formed pursuant to the Public Utility  
14 District Act set forth in Division 7 (commencing with Section  
15 15501), an irrigation district furnishing electric services formed  
16 pursuant to the Irrigation District Law set forth in Division 11  
17 (commencing with Section 20500) of the Water Code, or a joint  
18 powers authority that includes one or more of these agencies and  
19 that owns generation or transmission facilities, or furnishes  
20 electric services over its own or its member’s electric distribution  
21 system.

22 SEC. 50. Section 9605 of the Public Utilities Code is  
23 repealed.

24 SEC. 51. The provisions of this act are severable. If any  
25 provision of this act or its application is held invalid, that invalidity  
26 shall not affect other provisions or applications that can be given  
27 effect without the invalid provision or application.

28 SEC. 52. No reimbursement is required by this act pursuant  
29 to Section 6 of Article XIII B of the California Constitution  
30 because the only costs that may be incurred by a local agency or  
31 school district will be incurred because this act creates a new crime  
32 or infraction, eliminates a crime or infraction, or changes the  
33 penalty for a crime or infraction, within the meaning of Section  
34 17556 of the Government Code, or changes the definition of a  
35 crime within the meaning of Section 6 of Article XIII B of the  
36 California Constitution.

